



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/536,799      | 09/14/2005  | Kent R.H Bruun       | 123874-05065146     | 4534             |

43569 7590 07/13/2007  
MAYER, BROWN, ROWE & MAW LLP  
1909 K STREET, N.W.  
WASHINGTON, DC 20006

|          |
|----------|
| EXAMINER |
|----------|

GUTMAN, HILARY L

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3612

|           |               |
|-----------|---------------|
| MAIL DATE | DELIVERY MODE |
|-----------|---------------|

07/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                    |  |
|------------------------------|--------------------------------------|------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/536,799 | <b>Applicant(s)</b><br>BRUUN, KENT |  |
|                              | <b>Examiner</b><br>Hilary Gutman     | <b>Art Unit</b><br>3612            |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/25/06</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 8, 38, 39, 60 and reference number 114. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Figures 1a, 1b, 2a, and 2b should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

Art Unit: 3612

corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because in Figure 3a reference number “22” should apparently be “22a”. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the frustoconical, triangular, pyramidal, or a similar tapered shape of claim 5 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

5. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

6. The disclosure is objected to because of the following informalities:

On page 2, line 22, "in accordance with claim 1" is inappropriate language for the specification since the language in the claims can change throughout prosecution and the phrase should perhaps be deleted altogether.

On page 3, line 13, "as stated in claim 2" is inappropriate and should perhaps be deleted. On line 20, "as stated in claim 3" is inappropriate and should perhaps be deleted.

The phrases on page 4, line 5, "as stated in claim 4", on line 16, "as stated in claim 5", on line 27, "as stated in claim 6", and on line 33, "as stated in claim 7" should be deleted.

The phrases on page 5, line 15, "as stated in claim 8", on line 19, "as stated in claim 11", on lines 19-20, "any one of the claims 1 to 8", on line 21, "according to claim 9 or 10", and also on line 27, "in accordance with claim 12" should be deleted.

On page 9, line 8, "a holding device 20" should be "a locking device". On line 18, reference number 20 which does not appear in the drawing figures should be deleted. On line 28, "is" should be "are".

On page 10 all instances of reference number 20 should perhaps be deleted.

On page 11, line 1, "comprises" should be "comprise".

On page 13, line 5, "lever 41" is disclosed but reference number "41" is previously used to describe a "bolt" and only one reference number should be used for each item or feature of the invention for clarity throughout the specification. On line 13, "lashing system 11" was previously disclosed as "bar 11" and only one feature of the invention should be represented by reference number "11".

Art Unit: 3612

On page 14, line 28, "jaw 49b" should be "jaw 49". On line 31, "22a. nut." is awkward and confusing and perhaps "nut" should be deleted or the sentence rewritten.

On page 15, line 14, "hook ending 58" was previously disclosed as an "axle 58" and only one reference number should be used. Appropriate correction is required.

### *Claim Objections*

7. Claims 1, 3-5, 7-9, 12-13, 15, 18, 20, and 22 are objected to because of the following informalities:

In claim 1, on lines 8, 11, 13, "(20)" should be deleted or added to the drawing figures.

In claim 3, lines 4 and 7, "(20)" should be deleted.

In claim 4, line 2, "(20)" should be deleted.

In claim 5, line 2, "(20)" should be deleted.

In claim 7, line 2, "(20)" should be deleted.

In claim 8, line 2, "spring means" should apparently be "resilient means".

In claim 9, line 3, "to" should be inserted before "the ship".

In claim 12, line 6, "rod" should be "bar" and on line 9, "anther" should be "another".

In claim 13, line 3, "serrated" should be "corrugated".

In claim 15, line 2, "locking member" should be "locking element". On line 2, "first member" should be "first part". ON line 3, "member" (both occurrences) should be "part".

In claim 18, "urgde" should be "urge".

In claim 20, line 4, "firs" should be "first". On line 5, "the a" should be "when a".

In claim 22, line 3, "cylindre" should be "cylinder".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation a load, and the claim also recites a container which is the narrower statement of the range/limitation.

Claim 1 recites the limitation "means for connecting" in line 6. There is insufficient antecedent basis for this limitation in the claim.

In claim 1, line 9, "dents/grooves" is awkward and inappropriate since it is unclear what features "dents" or "grooves" the applicant intends to recite.

Regarding claim 1, the word "means" is preceded by the word(s) "resilient" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 2, the word "means" is preceded by the word(s) "shock absorbing spring" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 2, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 3 recites the limitation "the lower end" in line 4. There is insufficient antecedent basis for this limitation in the claim.

In claim 4, line 3, "dents/grooves" is awkward and inappropriate since it is unclear what features "dents" or "grooves" the applicant intends to recite.

Claim 4 recites the limitation "dents/grooves" in line 3. There is insufficient antecedent basis for this limitation in the claim.

In claim 5, line 2, "and/or" is awkward and inappropriate since it is unclear what features the applicant intends to recite.

Regarding claim 5, the phrase "or a similar tapered shape" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or a similar tapered shape"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

In claim 6, line 2, "dents/grooves" is awkward and inappropriate since it is unclear what features "dents" or "grooves" the applicant intends to recite. In addition, line 3, "and/or" is awkward and inappropriate since it is unclear what features the applicant intends to recite.

In claim 7, line 2, "and/or" is awkward and inappropriate since it is unclear what features the applicant intends to recite.

Claim 8 recites the limitation "said spring means" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the at least one opening" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 9, the word "means" is preceded by the word(s) "resilient" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim 11 recites the limitations "at least two elements" in lines 2-3 and "shipping containers" in line 4. There is insufficient antecedent basis for these limitations in the claim.

In addition it is unclear whether the applicant intends claim 11 to be a product claim (since it depends from claim 1) or a method claim (as recited) and the claim cannot be both.

Claim 24 recites the limitations "a fastening connection" in lines 1-2, "at least two elements" in line 2, and "shipping containers" in line 3. There is insufficient antecedent basis for these limitations in the claim.

In addition it is unclear whether the applicant intends claim 24 to be a product claim or a method claim (since it depends from claim 9) and the claim cannot be both.

Claim 12 recites the limitation "the first part " in lines 2-3, line 4, lines 7-8, and lines 8-9 and the limitation "the lashing rod" in line 6. There is insufficient antecedent basis for these limitations in the claim.

Regarding claim 12, the word "means" is preceded by the word(s) "locking" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim 13 recites the limitations "first part" in line 1 and "the serrated surface" in line 3. There is insufficient antecedent basis for these limitations in the claim.

Claim 15 recites the limitations "the locking member" in line 2, "the first member" in lines 2 and 3, "the second member" in line 3. There is insufficient antecedent basis for these limitations in the claim.

Claim 16 recites the limitation "self-release" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "self-release" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "the corrugations" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 18, the word "means" is preceded by the word(s) "resilient" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim 22 recites the limitations "one chamber" in lines 5 and 6 and "another" in line 6. There is insufficient antecedent basis for these limitations in the claim.

#### ***Allowable Subject Matter***

10. Claims 1-24 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

#### ***Conclusion***

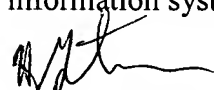
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3612

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 571-272-6662.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Hilary Gutman  
July 6, 2007